

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

KAREN RUSH

PLAINTIFF

v.

CIVIL NO. 06-5219

JO ANNE B. BARNHART, Commissioner
Social Security Administration

DEFENDANT

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Presently before the court is plaintiff's motion to dismiss. (Doc. # 9). Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision of the Commissioner of the Social Security Administration (Commissioner) finding that plaintiff was not entitled to a waiver of an alleged overpayment of benefits. (Doc. # 5-1). In a letter addressed to this court, plaintiff's counsel has stated that plaintiff and the Commissioner have worked out a payment agreement with regard to plaintiff's alleged overpayment. Accordingly, plaintiff now requests that the court dismiss her Complaint. (Doc. # 9).

Accordingly, we recommend that plaintiff's Complaint filed on November 17, 2006, be dismissed. **The parties have ten days from receipt of our report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger *de novo* review by the district court.**

IT IS SO ORDERED this 16th day of March 2007.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE